

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Biopolymer Engineering, Inc., and
Massachusetts Institute of Technology,

Plaintiffs,

v.

Civil No. 05-536 (JNE/SRN)
ORDER

Immunocorp and Biotec Pharmacon ASA,

Defendants.

Darren Schwiebert, Esq., Fredrikson & Byron, P.A., appeared for Plaintiffs Biopolymer Engineering, Inc., and Massachusetts Institute of Technology.

Susan A. Cahoon, Esq., Renae A. Bailey, Esq., and Alyson L. Wooten, Esq., Kilpatrick Stockton LLP, appeared for Defendants Immunocorp and Biotec Pharmacon ASA.

On January 28, 2009, the Court filed under seal a Memorandum. Unless otherwise ordered, the Court will either unseal or file a redacted version of the Memorandum on February 20, 2009. The parties shall submit proposed redactions, if any, to the Memorandum by February 13, 2009.

Based on the files, records, and proceedings herein, and for the reasons stated in the Memorandum, IT IS ORDERED THAT:

1. Plaintiffs' Motion for Partial Summary Judgment [Docket No. 296] is GRANTED IN PART and DENIED IN PART.
2. Defendants' Motion for Summary Judgment [Docket No. 301] is GRANTED IN PART and DENIED IN PART.
3. Counts 1-9, 11-12, and 14 of Plaintiffs' Second Amended Complaint [Docket No. 150] are DISMISSED WITH PREJUDICE.
4. Defendants' counterclaim [Docket Nos. 151 and 152] is DISMISSED WITH PREJUDICE insofar as Defendants seek declarations that the asserted claims of the Donzis Patents are invalid; that the asserted claims of the '223, '720, '542, '939, '643, and '569 Patents are invalid due to

anticipation; and that the Jamas Patents are unenforceable due to inequitable conduct.

5. Defendants' Sixth Affirmative Defense is DISMISSED WITH PREJUDICE insofar as it relates to the '720 and '940 Patents.
6. Defendants' Eighth Affirmative Defense is DISMISSED WITH PREJUDICE.
7. Defendants' Tenth and Twelfth Affirmative Defenses are DISMISSED WITH PREJUDICE insofar as they relate to Plaintiffs' defamation claim.
8. The parties shall submit proposed redactions, if any, to the Memorandum by February 13, 2009.

Dated: January 28, 2009

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge